



The MARYLAND
HEALTH CARE COMMISSION

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 25 MARYLAND HEALTH CARE COMMISSION

Chapter 19 Value-Based Care Delivery Programs

DRAFT REGULATIONS FOR INFORMAL PUBLIC COMMENT

Informal Public Comments Due October 20, 2015 by 5:00 PM

The Maryland Health Care Commission (MHCC) was given the authority under Md. Code Ann., Health-Gen., §§19-103(c)(1) and (2)(i) and (ii), 19-109(a)(1) and (8) to adopt regulations for value-based care delivery programs. This working document serves as a draft of the regulation and is no way final. The MHCC is seeking informal public comments on the draft regulations. Informal written public comments will be accepted until 5pm on October 20, 2015 and may be submitted via mail to the MHCC Attn: Christine Karayinopulos, Center for Health Information Technology and Innovative Care Delivery, 4160 Patterson Ave., Baltimore, MD 21215; or via email to christine.karayinopulos@maryland.gov.

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 25 MARYLAND HEALTH CARE COMMISSION

Chapter 19 Value-Based Care Delivery Programs

**Authority: Health-General Article, §§19-103(c)(1) and (2)(i) and (ii), 19-109(a)(1) and (8),
Annotated Code of Maryland**

.01 Scope.

This chapter applies to the oversight of value-based care delivery programs, including the patient centered medical home program required by the Maryland Medical Assistance Program for certain Medicaid managed care organizations, and to the State Designation of value-based care delivery programs that meet and maintain criteria to be established by the Maryland Health Care Commission. Only a value-based care delivery program that is awarded State designation status by the Maryland Health Care Commission pursuant to this chapter may represent itself as a State-Designated value-based care delivery program.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Accountable care organization” means a program that is comprised of health care providers who come together voluntarily to provide value-based care delivery to their patients.

(2) “Carrier” means:

(a) An insurer that holds a certificate of authority in the State and provides health benefit plans in the State in accordance with the Insurance Article;

(b) A nonprofit health service plan that is licensed to operate in the State;

(c) A health maintenance organization that is licensed to operate in the State;

- (d) A Medicaid managed care organization; or
 - (e) Any other entity that provides health benefit plans subject to regulation by the State.
- (3) “Clinically integrated organization” means an active and ongoing program formed by otherwise independent health care providers to evaluate and modify practice patterns in order to create a high degree of interdependence and cooperation among providers to ensure the delivery of efficient, high-quality care.
- (4) “Commission” means the Maryland Health Care Commission.
- (5) “Department” means the Department of Health and Mental Hygiene.
- (6) “Entity” means an individual, general or limited partnership, joint stock company, unincorporated association or society, municipal or other corporation, incorporated association, limited liability partnership, limited liability company, the State, an agency or political subdivision of the State, and any other governmental body.
- (7) “Executive Director” means the Executive Director of the Commission.
- (8) “Medicaid” means the Maryland Medical Assistance Program administered by the State under Title XIX of the Social Security Act and that provides comprehensive medical and other health-related care for eligible categorically and medically needy persons.
- (9) Medicaid MCO means an entity approved by the Department of Health and Mental Hygiene to operate as a managed care organization in the Maryland Medicaid Managed Care Program established under Health-General Article §15-103(b), Annotated Code of Maryland.
- (10) Patient Centered Medical Home” or “PCMH” means a team-based program of primary care in which health care providers coordinate value-based care delivery to their patients.
- (11) "Provider" means:
- (a) A person who is licensed, certified, or otherwise authorized under Health Occupations Article, Annotated Code of Maryland, to provide health care services in the ordinary course of business or practice of a profession or in an approved education or training program;
 - (b) A facility where health care is provided to patients or recipients, including:
 - (i) A health care facility, as defined in Health-General Article §19-114, Annotated Code of Maryland;
 - (ii) A health maintenance organization, as defined in Health-General Article §19-701(g), Annotated Code of Maryland;
 - (iii) An outpatient clinic; and
 - (iv) A medical laboratory; or

(c) The agents and employees of a facility who are licensed or otherwise authorized to provide health care, the officers and directors of a facility, and the agents and employees of a health care provider who are licensed or otherwise authorized to provide health care.

(12) “State Designation” or “State Designated” means recognition awarded by the Commission to a value-based care delivery program that has met and agrees to continue to maintain compliance with the VBCD State Designation criteria established under this chapter.

(13) “Value-based care delivery” or “VBCD” means:

(a) A care model under which the participating providers agree to take responsibility for the quality and costs of care for a population of patients, and that has the following attributes:

(i) Organizes health care delivery in a manner that strengthens the patient-clinician relationship and emphasizes care coordination and patient engagement;

(ii) Delivers health care to its patients by integrating providers within the VBCD program and in the broader community.

(iii) Employs information technology in a meaningful manner in the delivery of care; and

(iv) Includes one or more reimbursement models that hold providers accountable for improving the quality and efficiency of health care.

(b) VBCD models include a patient centered medical home program, an accountable care organization, a clinically integrated organization, the PCMH framework previously established on a pilot basis under Health General 19-1A-01- 03, or another program determined by the Commission to be a value-based care delivery program.

(14) “VBCD State Designation criteria” means the criteria established by the Commission and published by notice in the *Maryland Register* and on the Commission’s website that a VBCD program must meet and maintain to qualify for State Designation recognition.

.03 Establishment of criteria for State Designation of value-based care delivery programs.

A. The Commission shall establish a VBCD advisory group that will:

(1) Include representatives of carriers, providers, consumers of health care, and others as appropriate; and

(2) Advise Commission staff in the development of criteria, including quality measures, that a VBCD program should be required to meet and maintain in order to be awarded recognition as a State-Designated VBCD program.

B. Commission staff shall seek public comments on draft criteria required for a VBCD program to attain and maintain State-Designated VBCD recognition, which staff shall consider in making recommendations on VBCD State Designation criteria to the Commission.

C. The Commission shall establish criteria for a VBCD program to receive State-Designated VBCD recognition at a public meeting of the Commission.

D. The VBCD State Designation criteria established by the Commission shall be published in a notice in the *Maryland Register* and on the Commission's website.

.04 Procedure for initial State Designation of a VBCD program.

A. Application.

(1) A carrier seeking State Designation for its VBCD program shall submit an application in a form and manner specified by the Commission.

(2) The application shall be signed by an individual authorized by the carrier submitting the application.

B. Requirements for initial State Designation. A carrier seeking State Designation for its VBCD program shall:

(1) Demonstrate that it satisfies the criteria established by the Commission in effect at the date of the application;

(2) Provide all required documentation;

(3) Timely provide additional information requested by Commission staff as needed to complete the application; and

(4) Agree to comply with the criteria established by the Commission.

C. Review of Applications.

(1) Commission staff shall review an application to determine compliance with the VBCD State Designation criteria and recommend whether the Commission should approve, approve with conditions, or deny the application.

(2) The Commission may approve, approve with conditions, or deny an application for State Designation.

D. Duration of State Designation.

(1) State Designation is valid for three years from the date of issuance of a VBCD State Designation, unless suspended or revoked by the Commission.

(2) A VBCD program awarded State Designation shall accept the designation in writing and agree to comply with each condition placed by the Commission on the award of State Designation.

.05 Procedure for Renewal of State Designation.

A. An application for renewal of State Designation shall:

(1) Be made at least 90 days before the expiration of the State Designation in a form and manner specified by the Commission;

(2) Demonstrate compliance with conditions, if any, of earlier State Designation;

(3) Demonstrate compliance with the VBCD State Designation criteria in effect at the date of application for renewal; and

(4) Agree to comply with the criteria established by the Commission.

B. The Commission may approve, approve with conditions, or deny an application for renewal of State Designation recognition.

.06 Nontransferability of State Designation.

State Designation issued pursuant to this chapter may not be sold, assigned, leased, or transferred in any way.

.07 Commission oversight of State-Designated VBCD programs.

A. Commission staff may, on its own initiative or in response to information provided to the Commission in reports by a VBCD program or otherwise, review any State-Designated VBCD program or applicant for State Designation.

B. Following a review, the Executive Director may issue a notice of proposed action, which may include the following:

(1) A time-limited opportunity to correct deficiencies identified by the review;

(2) Suspension of the State Designation of a VBCD for a definite period of time after which, depending upon the circumstances of the case and completion of appropriate corrective actions, the VBCD may seek reinstatement of its State Designation; or

(3) Revocation of State Designation.

C. A VBCD program that receives a notice of proposed action from the Executive Director may request an opportunity to show cause why the proposed action should not be implemented.

(1) A written request to show cause shall be filed with the Commission within 20 days of the issuance of the notice of proposed action and shall:

(a) State with particularity the grounds and factual basis for the VBCD program's disagreement with the proposed action;

(b) Include each fact upon which the VBCD program relies to show cause why the proposed action should not be taken; and

(c) Be supported by relevant documentation and affidavits.

D. The Commission shall determine whether or not to impose the proposed action or a different action:

(1) After considering the written show cause filing by the VBCD program and any response by Commission staff; and

(2) After hearing oral arguments, if any, on the written filings by the VBCD program and staff.

.08 PCMH Program for Maryland Medicaid MCOs.

A. A Medicaid MCO required by the Department to participate in the Commission's PCMH program shall execute a PCMH agreement with the Commission using the PCMH framework previously established on a pilot basis under Health General 19-1A-01 - 03.

B. A Medicaid MCO that has executed a PCMH agreement shall participate or continue to participate in Commission's PCMH program until the Department notifies the Commission that it has discontinued the requirement that the Medicaid MCO participate in the PCMH program.

C. A PCMH agreement between a Medicaid MCO and the Commission shall continue in effect until the Department gives the notice specified in Section .07B.